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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
NGUYEN BA, HOANG VU A	

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/803,178	PUGH ET AL.	
	Examiner	Art Unit	
	Hoang-Vu A Nguyen-Ba	2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *17-33* is/are allowed.

6)☒ Claim(s) *1-16 and 34-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 June 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *See Continuation Sheet*.

Continuation of Attachment(s) 6). Other: Corrected drawing approved by Examiner.

DETAILED ACTION

1. This action is responsive to the amendment filed June 30, 2004.

2. Claims 1-37 remain pending.

Response to Amendment

3. Per Applicants' request, the Specification has been amended. No new matter has been added.

4. The replacement drawing sheet of Figure 1 was received concurrently with the above-mentioned amendment. This drawing is approved by the examiner.

5. Claims 9, 17, 19, 20, 23, 27 30, 32, 34, 36 have been amended.

6. Claims 23, 32, 34 and 36 have been amended to correct some minor informalities. The objection to these claims has been withdrawn.

7. Claim 17 has been amended to clarify the claim structure to be that of a method claim. The rejection of this claim under 35 U.S.C. § 112, second paragraph has been withdrawn.

8. Claims 19 and 32 have been amended to provide proper antecedent basis to the term "the aggregate allocations." The rejection of these claims under 35 U.S.C. § 112, second paragraph has been withdrawn.

9. In view of the amendment to claim 17 to clarify the claim structure of this claim to be a method claim, the rejection of this claim under 35 U.S.C. § 101 as being overlapping two different statutory classes has been withdrawn.

10. In view of Applicants' amendment to claim 34 to put the claim in proper form, the rejection of claims 34 and 35 under 35 U.S.C. § 101 has been withdrawn.

Response to Arguments

11. Applicants' arguments filed concurrently with the above-mentioned amendment have been fully considered but they are not persuasive. Following is Examiner's response to Applicant's arguments.

Claim 1

Applicants' arguments:

... House does not teach loading by default the **latest** version of the runtime library at initialization of an application service provision apparatus, let alone inquiring by the dispatcher **with the latest version of the runtime library** to learn of the required version of the runtime library. Instead, House teaches **pre-loading a number of versions of an application**, providing an indexing scheme to access them...

Examiner's response:

As Applicants pointed out in the arguments, House does pre-load a number of versions of an application, which necessarily include the latest version. If a latest version of an application, which usually is an improved version of an application, were not present then the purpose of the program performance improvement would be defeated.

Applicants' arguments:

... Note that the knowledge of the other versions of the runtime libraries rest with the latest version, which is always loaded, as it is loaded at initialization time. Accordingly, only the latest version of a runtime library is loaded until such a time an earlier version is needed, thus reducing the amount of resources required of the application service provision apparatus to host multiple versions of an application service...

Examiner's response:

The features of: a) the knowledge of other versions resting with the latest one; and b) only loading the latest version, are not explicitly recited in the claim. These limitations could be added to the claim to help distinguish Applicants' claim over House and the prior art.

Claims 2-6, 8 and 10-15

Since these claims depend from claim 1 which stands rejected in view of the above discussion, they are therefore not in condition for allowance.

Claims 17-19

Applicants' argument that House does not teach a shared resource, where usage tracking is performed by the resource consumers, or may be requested and used by the resource monitor in determining what resources are to be released is persuasive. Therefore, the rejection of claims 17-19 under 35 U.S.C. § 102(e) as being anticipated by House has been withdrawn. Claims 17-19 are allowed.

Claims 20-22 and 27-29

Applicants' arguments that House does not teach tracking by the resource consumers, identifying points in time where the allocations of the shared resource were last used, and making available the tracked usage information requested by the resource monitor to allow the resource monitor to be able to determine which of the allocated resources are to be released are persuasive. Therefore, the rejection of claims 20-22 and 27-29 under 35 U.S.C. § 102(e) as being anticipated by House has been withdrawn. Claims 20-22 and 27-29 are allowed.

Claims 23-26 and 30-33

For the same reasons discussed above with respect to claims 17, 20 and 27, the Examiner hereby withdraws the rejection of these claims under 35 U.S.C. § 102(e) as being anticipated by House. Claims 23-25 and 30-33 are thus allowed.

Claims 34 and 36

Applicants' arguments:

In particular, House does not disclose or teach any method of using these dynamically linked run time libraries with an application hosting service, teach how to provide multiple versions of an application hosting service, or teach a mechanism to determine which version of an application hosting service is required upon a request. Although House may be read as teaching the ability to store and locate multiple versions of language runtime modules, because this disclosure of storing multiple versions of an object is directed to language runtime modules instead of application hosting services, this teaching can not be said to read on the claimed elements.

Examiner's response:

The Examiner notes that the U.S. Court of Customs and Patent Appeals has held that claims are to be given their broadest reasonable interpretation during the prosecution of a patent application. In re Pearson 494 F.2d 1399, 1403, 181 USPQ 641, (CCPA 11974). In the instant claims, the Examiner interprets the limitation "application hosting services" to mean "language runtime modules" because as opposed to traditional systems, application programs are modularized for ease of development and implementation. In view of this approach, the claimed "application hosting services" are considered to be just "application modules."

The Examiner also notes that limitations related to the "application hosting services" described in the specification and possibly distinguishable over House and

the prior art are not to be read into the claims. However, if incorporated into claims 34 and 36, these limitations would help distinguish the claims over House and the prior art.

Claim Rejections - 35 U.S.C. § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent,
> except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

11. Claims 1-16 and 34-37 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,332,168 to House et al. ("House").

Claims 1, 7, 9 and 16

House discloses at least:

loading the latest version of the runtime library at initialization of the application service provision apparatus (see at least Figure 6, block 610 and related discussion in the specification);

during operation, receiving by a dispatcher a request for service for an application (see at least Figure 6, block 635; Figure 7, block 700; and related discussion in the specification);

in response, determining by the dispatcher whether the version of the runtime library required by the application is known to the dispatcher (see at least Figures 8, 9, 10 and related discussion in the specification); and

if the version of the runtime library required by the application is not known to the dispatcher, inquiring by the dispatcher with the latest version of the runtime library to learn of the required version of the runtime library (see at least Figures 8, 9, 10 and related discussion in the specification).

Claims 2 and 10

House further discloses *the latest version of the runtime library informing the dispatcher which version of the runtime library is the required version of the runtime library, and the dispatcher caching the required version information* (see at least Figures 8, 9 , 10 and related discussion in the specification).

Claims 3 and 11

House further discloses *the dispatcher routing the request of service to the application to handle if the dispatcher is informed by the latest version of the runtime library that the required version of the runtime library is the latest version itself* (see at least Figures 8, 9, 10 and related discussion in the specification).

Claims 4 and 12

House further discloses *the dispatcher determining whether the required version of the runtime library is loaded if the required version is an earlier version of the runtime library, and if the required earlier version of the runtime library is not loaded, loading the required earlier version* (see at least Figures 8, 9, 10 and related discussion in the specification).

Claims 5 and 13

House further discloses *the dispatcher routing the request of service to the application to handle if the required earlier version of the runtime library is already loaded or upon loading the required earlier version of the runtime library* (see at least Figures 8, 9, 10 and related discussion in the specification).

Claims 6 and 14

House further discloses *the dispatcher routing the request for service to the application to handle if the required version of the runtime library is known to the dispatcher* (see at least Figures 8, 9, 10 and related discussion in the specification).

Claim 8

The rejection of base claim 7 is incorporated. House further discloses further discloses *loading the latest version of the runtime library at initialization of the application service provider apparatus* (see at least Figures 8, 9, 10 and related discussion in the specification).

Claim 34

House discloses at least:

a first version of the application hosting service (see at least Figure 3, item 325 and related discussion in the specification);

a second version of the application hosting service (see at least Figure 3, item 330 and related discussion in the specification); *and*

a mechanism to determine whether the first or the second version of the

application hosting service is to be employed to host an application service requested; and at least one processor coupled to the storage medium to execute the programming instructions (see at least 4:3 – 5:67).

Claim 35

The rejection of base claim 34 is incorporated. House further discloses *wherein the mechanism comprises a selected one of the first and the second version resolving whether the first or the second version is to be employed to host the application service requested* (see at least 4:3 – 5:67).

Claim 37

House further discloses *wherein said determining comprises a selected one of the first and the second versions resolving whether the first or the second version is to be employed to host the application service requested* (see at least 4:3 – 5:67).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hoang-Vu A Nguyen-Ba whose telephone number is(571) 272-3701. The examiner can normally be reached on Tuesday-Friday, 6:00 – 16:30.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Tuan Dam can be reached at (571) 272-3695.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoang-Vu Antony Nguyen-Ba

ANTONY NGUYEN-BA
PRIMARY EXAMINER
Art Unit 2122
October 15, 2004